

**Appl. No.** : **10/767,630**  
**Filed** : **January 28, 2004**

## **REMARKS**

### **Disposition of Claims**

Claims 2, 4, and 10 are pending in this application. Claims 1, 3, 5-9, and 11-20 have been canceled without prejudice in the interests of accelerated prosecution. Claims 2, 4, and 10 have been amended. Support for the amendments can be found in the originally filed claims. No new matter has been added. Reexamination and reconsideration of the application, as amended, are respectfully requested.

### **Allowable Subject Matter**

Applicant gratefully acknowledges the Patent Office's indication of allowability with respect to Claims 2, 4, and 10, which have been objected to as depending upon a rejected claim. The claims would presumably be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Claim 2 has been rewritten in independent form to include all the limitations of the base claim. Claims 4 and 10 have been rewritten to depend from Claim 2. Since they have been rewritten in independent form including all of the limitations of the base claim and any intervening claims, the claims are presumably allowable.

### **Compliance with 37 CFR 1.84(p)(5)**

The Patent Office objected to the drawings and description as failing to comply with 37 CFR 1.84(p)(5). The rule according to 37 CFR 1.84(p)(5) is that reference characters appearing in the drawings must be mentioned in the description. In the specification, paragraphs 0015-0017 have been amended to mention in the description the reference characters appearing in the drawings. Support for the amendment can be found in the Specification as filed at paragraph [0098] through paragraph [0100]. The conclusion is that the description and drawings are in compliance with 37 CFR 1.84(p)(5).

### **Compliance with Rules That Govern Claims Formalities**

The Patent Office objected to Claims 2 and 15 for reciting the limitation "wherein the human epithelial cells are human bladder epithelial cells" on the grounds that the result is a duplication of a limitation already encompassed by the claims. Although Applicant does not necessarily agree with the propriety of the objection, Claim 2 has been amended to eliminate any perceived redundancies, and Claim 15 has been canceled without prejudice in the interests of

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accelerated prosecution. The conclusion is that the claims are in compliance with the rules that govern claims formalities.

**Compliance with 35 USC §112**

The issue is whether Claims 12, 19, and 20 are in compliance with 35 USC §112, second paragraph, as being definite. Although Applicant does not necessarily agree with the propriety of the rejection, Claims 12, 19, and 20 have been canceled without prejudice in the interests of accelerated prosecution. The conclusion is that the claims are in compliance with 35 USC §112, second paragraph, as being definite.

**Compliance with 35 USC §102**

The issue is whether Claims 1, 7, 8, and 13-18 are in compliance with 35 USC §102(b) as being anticipated by Taylor-Papadimitriou et al. (*Int. J. Cancer*. 1977 20:903-908). Although Applicant does not necessarily agree with the propriety of the rejection, Claims 1, 7, 8, and 13-18 have been canceled without prejudice in the interests of accelerated prosecution. The conclusion is that the claims are in compliance with 35 USC §102(b) as being patentable over Taylor-Papadimitriou et al. 1977.

The issue is whether Claims 1, 3, 5-8, and 13-18 are in compliance with 35 USC §102(b) as being anticipated by Barky et al. (USP 5,643,787). Although Applicant does not necessarily agree with the propriety of the rejection, Claims 1, 3, 5-8, and 13-18 have been canceled without prejudice in the interests of accelerated prosecution. The conclusion is that the claims are in compliance with 35 USC §102(b) as being patentable over Barky et al. (USP 5,643,787).

The issue is whether Claims 11 and 12 are in compliance with 35 USC §102(b) as being anticipated by Atala et al. (WO 93/07913). Although Applicant does not necessarily agree with the propriety of the rejection, Claims 11 and 12 have been canceled without prejudice in the interests of accelerated prosecution. The conclusion is that the claims are in compliance with 35 USC §102(b) as being patentable over Atala et al. (WO 93/07913).

The issue is whether Claims 13-18 are in compliance with 35 USC §102(b) as being anticipated by Ehmann et al. (*Exp. Cell Res.* 1998 243:76-86). Although Applicant does not necessarily agree with the propriety of the rejection, Claims 13-18 have been canceled without prejudice in the interests of accelerated prosecution. The conclusion is that the claims are in compliance with 35 USC §102(b) as being patentable over Ehmann et al. 1998.

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The issue is whether Claims 13-20 are in compliance with 35 USC §102(b) as being anticipated by Vatne et al. (*Anticancer Res.* 1998 18:3985-3990). Although Applicant does not necessarily agree with the propriety of the rejection, Claims 13-18 have been canceled without prejudice in the interests of accelerated prosecution. The conclusion is that the claims are in compliance with 35 USC §102(b) as being patentable over Vatne et al. 1998.

#### **Compliance with 35 USC §103**

The issue is whether Claims 3 and 9 are in compliance with 35 USC 103(a) as being obvious over Taylor-Papadimitriou et al. (*Int. J. Cancer.* 1977 20:903-908) in view of Smith et al. (*Cancer Res.* 1981 41:4637-4643). Although Applicant does not necessarily agree with the propriety of the rejection, Claims 3 and 9 have been canceled without prejudice in the interests of accelerated prosecution. The conclusion is that the claims are in compliance with 35 USC 103(a) as being obvious over Taylor-Papadimitriou et al. 1977 in view of Smith et al. 1981.

#### **CONCLUSION**

In view of the above, it is submitted that the claims are in condition for allowance. Reconsideration and withdrawal of all outstanding rejections are respectfully requested. Allowance of the claims at an early date is solicited. If any points remain that can be resolved by telephone, the Examiner is invited to contact the undersigned at the below-given telephone number.

Respectfully submitted,

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